

Customer No. 32,127
Attorney Docket No. 01-1013

REMARKS

I. Status of the Claims

In the Office Action¹ mailed March 6, 2006, the Examiner noted that a non patent literature document listed in the Information Disclosure Statement dated February 8, 2006, was missing or was not submitted. The Examiner rejected claims 1-3, 5, 7-10, 12, and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite, and rejected claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,058,163 to Pattison et al. ("Pattison") in view of U.S. Patent No. 6,535,596 to Frey et al. ("Frey").

By this amendment, claims 1, 8, 22, and 27 have been amended. Claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-37 are currently pending.

II. Information Disclosure Statement

Applicants appreciate the Examiner's indication of an inadvertently missing or unsubmitted document in the Information Disclosure Statement dated February 8, 2006. Applicants concurrently submit herewith a Supplemental Information Disclosure Statement Under 37 C.F.R. § 1.97(c) to provide the Examiner with a copy of the document.

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

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III. Section 112, First Paragraph, Rejection of Claims 1-3, 5, 7-10, 12, and 14

Applicants traverse the Examiner's rejection under 35 U.S.C. § 112, first paragraph. The Examiner alleged that in claims 1 and 8 "[i]t is not clear whether the 'requesting party' is the same as the 'calling party' or not." Applicants respectfully disagree. However, to advance prosecution, Applicants have amended claims 1, 8, and 22 to unquestionably distinguish "a calling party" from "a requesting party." Applicants have similarly amended claim 27 to distinguish "a calling party" from "a recipient."

Accordingly, Applicants respectfully request withdrawal of the § 112, second paragraph, rejections of claims 1-3, 5, 7-10, 12, and 14.

IV. Section 103(a) Rejection of Claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-31

A. Procedural Issues Regarding the Rejection

Applicants respectfully submit that the Examiner did not answer the substance of the arguments submitted by Applicants in the papers filed on October 12, 2005 and December 13, 2005. According to M.P.E.P. § 707.07(f), "[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, *take note of the applicant's argument and answer the substance of it.*" (Emphasis added.)

For example, in Applicants' remarks filed December 13, 2005 ("Applicants' December Remarks"), Applicants presented arguments in rebuttal of the Examiner's allegation that "determining whether to establish the call connection," as recited in claims 1, 8, and 22, is inherent in Pattison. See Applicants' December Remarks, pp. 9 and 10. Specifically, Applicants argued that because Pattison describes a system that *must establish* a call connection after receiving and recording information (as correctly

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observed in the Advisory Action), the system of Pattison necessarily omits "*determining whether to establish [a] call connection,*" as claimed (emphasis added). See id. (citing Pattison, col. 5, lines 15-20). The Examiner did not answer the substance of these arguments.

Applicants further submit that their ability to respond to the outstanding Office Action is impeded by the lack of response to his previously presented arguments. Therefore, should the Examiner maintain the same rejection of claims 1, 8, and 22, after consideration of this Reply to Office Action, Applicants respectfully request that the Examiner fully respond to Applicants' previously presented arguments. This would give Applicants a fair opportunity to review comments, feedback, or responsive arguments from the Examiner, and help Applicants advance the prosecution of the present application.

B. Substantive Issues Regarding the Rejection

Applicants respectfully traverse the rejection of claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-31 under 35 U.S.C. § 103(a) as being unpatentable over Pattison in view of Frey. No *prima facie* case of obviousness has been established with respect to claims 1-3, 5, 7-10, 12, 14, 22, 24, and 26-31 because the references, taken alone or in combination, do not teach or suggest each and every element recited in the claims and because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one having ordinary skill in the art, to modify the reference or combine the reference teachings. See M.P.E.P. § 2143.

For example, independent claim 1 recites, among other things: "determining whether to establish the call connection." Claims 8 and 22 recite similar claim elements.

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Pattison and Frey, taken alone or in combination, fail to teach or suggest at least these elements of claims 1, 8, and 22.

In addition, the Examiner has shown no suggestion in the prior art of "determining whether to establish the call connection," as claimed. The Examiner alleged in the Advisory Action that Pattison inherently teaches "determining whether to establish the call connection." However, as noted above, Pattison describes a system that *must establish* a call connection after receiving and recording information, as correctly observed in the Advisory Action. See Advisory Action, p. 2; Pattison, col. 5, lines 15-20. Therefore, the system of Pattison necessarily omits "*determining whether to establish [a] call connection,*" as claimed (emphasis added).

Furthermore, independent claim 1 recites, among other things: "analyzing the recorded dial stream information derived from at least one of the call connection request and the call connection to generate a result for the at least one analysis request; and providing the result to the requesting party." Claims 8, 22, and 27 recite similar claim elements. Pattison and Frey, taken alone or in combination, fail to teach or suggest at least these elements of claims 1, 8, 22, and 27.

The Examiner observed that Pattison does not teach "analyzing the recorded dial stream information derived from at least one of the call connection request and the call connection to generate a result for the at least one analysis request." See Office Action, p. 4. In an attempt to remedy this deficiency, the Examiner proposed combining Frey with Pattison. See Final Office Action, page 3. According to the Examiner, Frey teaches an "access module 117 [that] analyzes digits in order to recognize the type of information or services that are requested by the *calling party*." See Office Action, page

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4 (citing Frey, col. 6, lines 43-55) (emphasis added). Thus, instead of "analyzing . . . and providing a result to the *requesting party*," as required by claim 1, Frey recognizes and responds to keypad inputs from a *calling party*. Frey, col. 6, lines 47-50. Moreover, the Examiner identified a supervisor in Pattison as the claimed "requesting party" and identified a caller to a call center as the claimed "calling party." See Office Action, page 3. In contrast, the system disclosed in Frey does not receive requests from a supervisor and any information or service resulting from recognized keypad input is provided only to the calling party. Therefore, Frey fails to teach or suggest generating a result that could be provided to the supervisor in Pattison.

In response to Applicants' arguments that Frey does not teach or suggest "analyzing . . . and providing a result to [a] requesting party," the Examiner "raised the question of whether the calling party recited in independent claims 1 and 8 is the same as the requesting party or not." See Office Action, p. 7. According to the Examiner, Applicants' argument is irrelevant if the two parties are the same. See id.

As noted above under Applicants' remarks addressed to the Section 112, first paragraph, rejection, Applicants believe the previously presented claims sufficiently distinguish the claimed "calling party" and "requesting party," but, to advance prosecution, Applicants have amended claims 1, 8, and 22 to unquestionably distinguish the two parties. Accordingly, Pattison and Frey, considered alone or in combination, fail to teach or suggest "analyzing the recorded dial stream information derived from at least one of the call connection request and the call connection to generate a result for the at least one analysis request; and providing the result to the requesting party," as claimed.

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Therefore, the 35 U.S.C. § 103(a) rejection of independent claims 1, 8, 22, and 27, and dependent claims 2, 3, 5, 7-10, 12, 14, 22, 24, and 26-31,² which depend from one of independent claims 1, 8, and 22, should be withdrawn.

III. Section 103(a) Rejection of Claims 32-37

Applicants respectfully traverse the rejection of claims 32-37 under 35 U.S.C. § 103(a) as being unpatentable over Pattison in view of Frey. No *prima facie* case of obviousness has been established with respect to claims 32-37 for at least the reason that the references, taken alone or in combination, do not teach or suggest each and every element recited in the claims. For example, independent claim 32 recites, among other things:

receiving a call connection request, the call
connection request for a call connection between a first party
and a second party, the first party permitting dial stream
recording; [and]
recording dial stream information associated with the
call connection request in a record associated with the first
party.

The Examiner has shown no teaching or suggestion in the prior art of these claim elements. The rejection also fails to establish a legitimate motivation to combine the references. Should the Examiner continue to reject claim 32 as unpatentable under 35 U.S.C. § 103(a), Applicants request that the Examiner provide specific citations to the references relied upon to support such a rejection as required by 37 C.F.R. and the

² As Applicants' remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicants' silence as to the Examiner's assertions with respect to dependent claims is not a concession by Applicants to the Examiner's

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M.P.E.P. All actions on the merits issued by an Examiner must "be complete and clear as to all matters." 37 C.F.R. § 1.104(b). See also M.P.E.P. § 707.07 (8th ed., rev. 2, May 2004). Specifically, 37 C.F.R. § 1.104(c)(2) provides that:

"[i]n rejecting claims for want of novelty or for obviousness, the examiner must cite the best reference at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference ... must be clearly explained..." (emphasis added).

See also M.P.E.P. § 707 (8th ed., rev. 2, May 2004).

In response to Applicants' December Remarks and in the Advisory Action, the Examiner alleged that the "limitations of claim 32 are substantially the same limitations recited in independent claim 1." Office Action, pp. 7 and 8; Advisory Action p. 3. Thus, according to the Examiner, "all the citations in the prior art used to reject claim 1 should be applied to claim 32." See Office Action, p. 8. Applicants respectfully disagree.

For example, independent claim 32 recites, among other things: "recording dial stream information . . . in a record associated with the first party." Unlike claim 32, claim 1 does not recite a "record associated with a first party." Accordingly, the 35 U.S.C. § 103(a) rejection of independent claim 32, and dependent claims 33-37, which depend from independent claim 32, should be withdrawn.

assertions as to these claims, and Applicants reserve the right to analyze and dispute such assertions in the future.

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Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Reply and charge any additional required fees to our deposit account 07-2347.

Respectfully submitted,

Dated: June 2, 2006

By: 

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CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being transmitted by facsimile to the United States Patent Office at 571-273-8300.

Dated: June 2, 2006

Signature

 (Christian R. Andersen)